

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE  
FEBRUARY, 2000 SESSION

**JOHN EDGAR JUSTICE, JR., v. STATE OF TENNESSEE.**

**Criminal Court for Davidson County  
No. 2816**

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**No. M1999-00974-CCA-R3-PC - May 5, 2000**

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**ORDER**

The petitioner, John Edgar Justice, Jr., appeals the order of the Davidson County Criminal Court dismissing his petition for writ of habeas corpus. The petitioner is presently serving an effective ten (10) to twenty-six (26) year sentence for convictions he received in the late 1970's. In his *pro se* petition for writ of habeas corpus, he claims that the judgments of conviction are void and illegal and that his sentences have expired. The trial court summarily dismissed the petition without appointment of counsel. After a thorough review of the record before this Court, we affirm the trial court's judgment pursuant to Rule 20 of the Tennessee Court of Criminal Appeals.

To place this appeal in the proper perspective, we recite the facts as set forth by this Court on appeal from a previous petition for writ of habeas corpus filed by the petitioner:

The appellant admits that he received four sentences totaling ten to twenty-six years from convictions in Blount County during the period of December 15, 1977 through September 20, 1979.<sup>1</sup> The appellant's record of criminal convictions is complicated by the fact that, after his December 15, 1977 conviction, he was released on bond pending appeal, during which time he committed additional crimes. After his rearrest and incarceration for these crimes, he escaped. While on escape status he committed a federal offense, which resulted in his conviction and federal sentence of twenty years. The federal sentence was ordered to run consecutive to his state

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<sup>1</sup> The four convictions and dates of imposition of sentences are as follows: (1) attempt to commit felony, December 15, 1977 - one to three years; (2) assault with intent to commit rape (enhanced by five years for use of weapon), October 11, 1978 - six to fifteen years; (3) burglary, first degree (concurrent with case # 2, but consecutive to case # 1), October 11, 1978 - an indeterminate sentence of ten to ten years; (4) escape, consecutive to cases # 1, # 2, and # 3, September 20, 1979 - two to three years. (Footnote in original).

sentences of ten to twenty-six years.<sup>2</sup>

On the day following his sentencing for escape, September 21, 1979, the appellant was transported to Brushy Mountain State Prison. . . . On September 24, 1979, the appellant was transported from Brushy Mountain back to the Blount County jail to await transfer to a federal correctional facility. On September 25, 1979, the appellant was placed in the custody of federal authorities. The appellant acknowledges that his federal sentence of twenty years was ordered to be served consecutive to his state sentence of twenty-three years. . . .

On August 24, 1992, after expiration of his federal sentence, the appellant was returned to the Tennessee Department of Correction. . . .

John Edgar Justice, Jr. v. Jimmy Harrison, Warden, et. al., C.C.A. No. 02C01-9612-CC-00448, 1997 WL 793506, at \*1-2, Lauderdale County (Tenn. Crim. App. filed December 30, 1997, at Jackson).

In this petition the petitioner alleges ten (10) grounds for habeas corpus relief. Although in the first six (6) grounds he makes conclusory allegations that the Blount County trial court lacked jurisdiction to convict and sentence him, the facts as alleged by petitioner do not establish a lack of jurisdiction. At most the allegations, if true, would merely render his conviction and sentence voidable rather than void. In the remaining grounds, the petitioner contends his sentences have expired as a result of sentence reduction credits. This Court has previously held that time credits are inappropriate considerations in a habeas corpus proceeding and must be addressed through the Uniform Administrative Procedure Act. Carroll v. Raney, 868 S.W.2d 721, 723 (Tenn. Crim. App. 1993).

It is well-established that habeas corpus relief is available only if “‘it appears upon the face of the judgment or the record of the proceedings upon which the judgment is rendered,’ that a convicting court was without jurisdiction or authority to sentence a defendant, or that a defendant’s sentence of imprisonment or other restraint has expired.” State v. Barry Winfred Ritchie, No. E1999-00005-SC-R11-COA (Tenn. S. Ct.) (April 3, 2000) quoting Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993). No extrinsic proof, such as the petition in this case would require in order to establish the petitioner’s claims, is permitted in a state habeas corpus proceeding. Id. The habeas petitioner bears the burden of demonstrating by a preponderance of the evidence that the judgment of conviction is void or that his term of confinement has expired. Passarella v. State, 891 S.W.2d 619, 627 (Tenn. Crim. App. 1994).

The petitioner has not shown that the judgments of conviction are void or that his sentences have expired. Because the petition failed to state a claim which would entitle him to habeas corpus relief, the trial court properly dismissed the petition. *See* Tenn. Code Ann. § 29-21-109. Accordingly, we affirm the judgment of the trial court pursuant to Rule 20 of the Tennessee Court

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<sup>2</sup> The federal sentence was imposed on June 1, 1979. (Footnote in original).

of Criminal Appeals. Costs of the appeal will be paid by the State of Tennessee as it appears that the petitioner is indigent.

Per Curium

Jerry L. Smith, Judge  
David G. Hayes, Judge  
Norma McGee Ogle, Judge